

## **REMARKS**

### **Response to Claim Objections**

Claims 31, 122 and 126 were objected to by the Examiner because of the following informalities: It appears that claim 31 should depend on claim 120 instead of claim 29 which has been cancelled; in claim 31, "securing member" should be "securing element"; in claim 122, line 4, "attachment" should be "attachment member". In response applicants have amended these claims as suggested by the Examiner.

The Examiner questioned whether claim 126 depends on claim 120 or claim 125. Applicants note that this claim should depend from claim 120 as indicated.

### **Response to Claim Rejections Under 35 USC §112**

Claims 115-119 and 126 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

In response to this rejection applicants have amended claim 115 to delete reference to "a length" to avoid the rejection. However, applicants also wish to note that Figure 5 supports the original claim language.

Applicants have also amended claim 126 to indicate that the posterior stopping surface of the stopping member is perpendicular to the bore axis.

Claims 52-53, 115-119 and 122-124 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants have amended claims 52, 115, 122, 124 along the lines suggested by the Examiner to avoid these rejections. Additionally, applicants have further amended claims 52, 116, 118, 119, 122, 123 and 124 to further clarify these claims.

## **Response to Claim Rejections Under 35 USC §102**

Claims 52-53, 63-69 and 73 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Errico et al. (U.S. Pat. No. 5,876,402).

Claims 52 and 63 have been amended to clarify the relationship of the enlarged integral portion of the securing member with respect to the stopping member. Specifically, these claims call for the enlarged integral portion of the securing element to have a maximum transverse dimension that is greater than the transverse dimension of the stopping member in the second configuration, i.e. after the enlarged portion passes into the posterior bore portion in order to retain the enlarged integral portion within the posterior bore portion and facilitate longitudinal movement of the enlarged integral portion within the posterior bore portion. With the bone plate assembly described in Errico et al. ('402 patent), the integral head (120) of the securing element is rotatably encased within the interior volume (140) of coupling element (132) but is not configured for longitudinal movement within the posterior bore portion. The maximum dimension of the integral head (120) of Errico et al. is smaller than the smallest transverse dimension of the passageway of collar (180). See Fig. 6 of Errico et al. The coupling element 132 of the Errico et al. assembly expands the passageway of the snap-ring or collar (180) not the integral head (120).

The applicants submit that the Errico et al. reference fails to meet all the requirements of claims 52 and 63 as amended above, so the reference does not support the Examiner's §102 rejection of these claims as well as those claims depending therefrom.

## Response to Allowable subject Matter

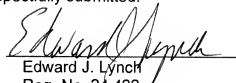
The applicants note with appreciation the allowance of claims 1-28, 30, 37-40, 43-46, 48-60, 74-79, 84-86, 88, 90, 91, 93,95,98-102, 105, 108, 111-114, 120-121 and 125.

## Conclusions

Applicants believe that the pending claims are in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted:

By:

  
Edward J. Lynch  
Reg. No. 24,422  
Attorney for Applicants

EDWARD J. LYNCH  
Patent Attorney  
Four Embarcadero Center  
Suite 1700  
San Francisco, CA 94111  
Fax: (415) 391-9304  
Tel: (415) 391-9300